

LOCAL PROBATE RULES
FOR THE MONROE CIRCUIT COURT

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LOCAL PROBATE RULE 1: NOTICE

A. PREPARATION

Whenever notice by publication or written notice by United States mail is required to be given, the attorney shall prepare such notice and shall ensure that notice is properly published or served by United States mail, return receipt requested. The notice shall comply with all statutory requirements in all respects. It shall be the attorney's responsibility to ascertain and provide adequate proof that notice was properly served prior to bringing any matter before the Court.

B. COPIES

Copies of petitions shall be sent with all notices where any hearing being brought before the Court arises from matters contained in the petition.

C. NOTICE TO CREDITORS

Notice of the opening of an estate shall be sent by United States mail to all creditors who are readily ascertainable by the attorney.

LOCAL PROBATE RULE 2: FILING OF PLEADINGS

A. MAIL COPIES

When pleadings are filed by mail, or left with the Court for filing by attorneys who do not have distribution boxes in the Office of Court Services, a stamped self-addressed envelope shall be included for return of the documents to the attorney.

B. FILING WITH PROBATE ADMINISTRATOR

Routine pleadings, such as Inventories, Inheritance Tax Schedules, petitions to sell real or personal property, petitions for partial distribution, or final reports, are to be filed with the Probate Administrator of the Monroe Circuit Court.

C. PREPARATION OF ORDERS

The attorneys shall prepare appropriate orders for review by the Court, except when expressly directed otherwise by the Court.

D. VERIFICATION

Every pleading, including inventories, petitions, and accountings, filed in any estate or guardianship shall be signed and verified by the fiduciary. If there is more than one fiduciary, all shall sign such pleading, petition, inventory, or accounting. The name and address of the attorney representing the fiduciary shall appear on all documents filed with the Court.

E. INITIAL PETITION

The initial petition opening the estate or guardianship shall contain the name, address, social security number and date of birth of the fiduciary, or fiduciaries, of a person. If a corporate fiduciary, the name and address of the fiduciary shall appear on the initial petition.

LOCAL PROBATE RULE 3: BOND

A. CORPORATE SURETY BOND

In every estate or guardianship, the fiduciary, prior to the issuance of letters, shall file a corporate surety bond in an amount not less than the value of the personal property to be administered, plus the probable value of annual rents and profits of all property of the estate in such amount as shall be set by the Court, except as hereafter provided:

1. Where, under the terms of a will, the testator expresses an intention that the bond be waived, the Court shall set a bond in an amount adequate to protect creditors, tax authorities, and devisees. This bond must be a minimum of Fifteen Thousand Dollars (\$15,000.00) or the total amount of cash, checking and/or money market account assets, whichever is greater. If the above amounts are not immediately attainable, the estate may be opened with a Fifteen Thousand Dollar (\$15,000.00) bond which must be increased to the larger amount when that amount is determined (within 30 days of probating the will). If using the latter procedure, the petition to probate must so state.
2. Where the fiduciary is an heir or legatee of the estate, the Court may reduce the bond by the amount of the fiduciary's share of the estate.
3. Where the heirs or legatees have filed a written request that the fiduciary serve without bond, the bond may be set in an amount adequate to protect the rights of the creditors and tax authorities only.
4. In an unsupervised estate, bond may be set at the discretion of the Court, and, unless otherwise ordered, shall be in the amount of Fifteen Thousand Dollars (\$15,000.00).
5. No bond shall be required in any supervised estate or guardianship in which a corporate fiduciary, qualified by law to serve as such, is either the fiduciary or one of the co-fiduciaries.

B. TRANSFER IN LIEU OF BOND

In lieu of a bond as required by Local Probate Rule 3(A), a fiduciary may restrict transfer of all or part of the estate or guardianship liquid assets by placing those assets in a federally insured financial institution with the following restriction placed on the face of the account or document: NO PRINCIPAL OR INTEREST SHALL BE WITHDRAWN WITHOUT WRITTEN ORDER OF A JUDGE OF THE CIRCUIT COURT OF MONROE COUNTY, INDIANA.

C. INCLUSION OF VALUE AND INCOME

All petitions to open an estate or guardianship shall set forth the probable value of the personal property, separating the cash, checking and money market assets, and the estimated annual rents or profits to be derived from the property in the estate or guardianship, if any.

D. INCLUSION OF AGENCY IDENTIFICATION

The name, address, and telephone number of the insurance agency providing the corporate surety shall be typed or printed on all corporate bonds in any estate or guardianship.

E. PERSONAL BOND

No personal bond shall be filed for any fiduciary unless the attorney opening the estate obtains prior approval of the court allowing the filing of such bond. Any request to allow the filing of a personal surety bond shall be by written petition to the Court, verified by the personal surety, and setting forth the fair market value of the net personal assets of the individual seeking to file the personal surety bond.

LOCAL PROBATE RULE 4: INVENTORY

A. FILING DEADLINES

An inventory shall be filed by the fiduciary in all supervised estates and guardianships as follows: Within sixty (60) days for supervised estates; within thirty (30) days for temporary guardianships; and within ninety (90) days for permanent guardianships. All times shall commence on the date of appointment of the fiduciary.

B. PARTIAL INVENTORY

In the event a partial inventory is filed, all subsequent inventories shall contain a recapitulation of the prior inventory or inventories.

LOCAL PROBATE RULE 5: REAL ESTATE

A. FILING OF APPRAISAL

In all supervised estates and guardianships in which real estate is to be sold, a written professional appraisal shall be filed with the Court at the time of filing of the petition for sale, unless such appraisal was filed with the Inventory. The written appraisal shall include, as a minimum, the following information:

1. A brief description of the real property interest being appraised, including the full legal description.
2. Purpose and objective of the appraisal.
3. Date on which fair market value was determined.
4. Data and reasoning supporting the fair market value.
5. The fair market value determined by the appraiser.
6. Statement of assumptions and special or limiting conditions.
7. Certification of disinterest in the real estate or the proposed sale.
8. Signature, address, and telephone number of the person certifying the appraisal.

B. TIME OF APPRAISAL

All appraisals required by Local Probate Rule 5(A) shall be made within one year of the date of the filing of the petition for sale of the real estate.

C. DEEDS

All deeds submitted to the Court for approval in estate or guardianship proceedings shall be signed by the fiduciary in front of a notary public prior to its submission. All such deeds shall be submitted with the report of sale of the real estate, or at the time of the hearing on the final account. Copies of such deeds shall be submitted with the report of sale, or at the time of hearing on the final account. Copies of such deeds will be filed by the Court as a part of the estate or guardianship records.

D. RECORDING OF FINAL DECREE

Whenever a final decree reflects vesting of real estate in heirs or beneficiaries, the decree shall be recorded with the Recorder of the county where the real estate is located, and evidence of such recording shall be provided to the Court with the supplemental report.

LOCAL PROBATE RULE 6: SALE OF ASSETS

A. APPRAISAL OF PERSONAL PROPERTY

In all supervised estates and guardianships, no petition for sale of personal property shall be granted unless a written appraisal, prepared by a person competent to appraise such property and setting forth the fair market value of the property to be sold is filed with the court, either at the time of filing of the petition to sell or at the time the inventory is filed. This rule shall not apply if the property is sold at a public auction by written approval of the court.

B. TIME OF APPRAISAL

All appraisals required by Local Rule 6(a) shall be made within one year preceding the date of the petition to sell.

C. SALE OF OTHER ASSETS

No written appraisal shall be required for the sale of assets which are traded in a market and the value of which is readily ascertainable. Such assets include, but are not limited to, stocks, bonds, mutual funds, commodities, and precious metals.

LOCAL PROBATE RULE 7: CLAIMS

A. EXAMINATION OF CLAIM DOCKET

Five months and fifteen days after the date of the first published notice to creditors, the fiduciary or the fiduciary's attorney, shall examine the Claim Docket and shall allow or disallow each claim filed against the estate.

B. CLAIM DISALLOWED

If a claim is disallowed, the attorney for the estate shall cause said claim to be transferred to the civil docket of the Monroe Circuit Court immediately so that said claim can be allowed or disallowed by the Court as soon as possible.

LOCAL PROBATE RULE 8: ACCOUNTINGS

A. INTERMEDIATE ACCOUNTING

Whenever an estate cannot be closed within one year, an intermediate account shall be filed with the Court within thirty days after the expiration of one year and each succeeding year thereafter. Such accounting shall comply with the provisions of Indiana Code Sections 29-1-16-4 and 29-1-16-6, and

1. Shall state facts showing to the Court that reasons the estate cannot be closed and providing the Court with an estimated date of closing.
2. Shall propose partial distribution of the estate to the extent that partial distribution can be made without prejudice to distributees, claimants, and taxing authorities.

B. ACCOUNTING CERTIFICATION

All guardianship accountings shall contain a certification of an officer of any financial institution in which guardianship assets are held verifying the account balance. (See attached Appendix A.)

C. ACCOUNTING OF BENEFITS

All social security or medicare benefits received by a guardian on behalf of an incapacitated person shall be included and accounted for in the guardianship accountings unless Court approval has been previously granted allowing said funds to be paid directly to a residential or health care facility.

D. VOUCHERS AND CANCELLED CHECKS

In all supervised estate and guardianship accountings, vouchers or cancelled checks for the expenditures claimed shall be filed with the accounting. No affidavits in lieu of vouchers or cancelled checks will be accepted from individual fiduciaries without prior written petition to the Court and approval by Court. Such approval will be granted only in those cases where the Court determines exigent circumstances exist which require a waiver of the requirement of the fiduciary to file vouchers or cancelled checks. An affidavit in lieu of vouchers or cancelled checks may be accepted from a state or federally chartered financial institution serving as a fiduciary, provided the financial institution retains the vouchers or cancelled checks on file or by electronic recording device, and is able to, and will, make such available to interested parties

upon Court order. The Court may make such available to interested parties upon Court order. The Court may require such financial institution to provide a certification from its Internal Audit Department verifying the accuracy of the accounting.

E. EXPENDITURE NOTATION

In all supervised estate and guardianship accountings, a notation shall be placed by each reported expenditure indicating the reason for or nature of the expenditure unless the name of the payee indicates the nature of the expenditure.

EXAMPLE: Bogata Drugs - toiletries for incapacitated person
Dr. Tom Jones
Sam Smith - repair roof of home at 162 Maple Street,
Anytown, Indiana
Tendercare Nursing Home

F. ITEMIZED STATEMENT OF ASSETS

All accountings to the Court shall contain an itemized statement of all assets on hand.

G. FILING OF RECEIPTS AND CHECKS

Receipts or cancelled checks for all final distributions shall be filed either in the final report or a supplemental report before discharge of the fiduciary will be granted by the Court.

H. FORMALITY

All accountings shall follow the prescribed statutory format. Informal, handwritten, or transactional accountings will not be accepted by the Court.

I. PAYMENT OF COSTS AND CLAIMS

All Court costs shall be paid and all claims satisfied and released before the hearing on the final account, and a Clerk's Certification (see attached form) shall be filed with the Court before the final account will be approved.

J. TAX CLOSING LETTERS

The Federal Estate Tax Closing letter and the Indiana Inheritance Tax Closing letter showing payment of all Federal estate and Indiana inheritance tax liability in the estate shall be attached to the final report at the time of filing.

LOCAL PROBATE RULE 9: FEES OF ATTORNEYS AND FIDUCIARY

A. ORDER APPROVING FEES

No fees for attorneys or fiduciaries shall be paid out of any supervised estate or guardianship without prior written order of the Court. Appropriate proposed orders should be submitted to the Court at the time a petition to approve fees is filed. All proposed orders for approval of fees for attorneys or fiduciaries shall provide that such fees are not to be paid until the interim account or the final account has been approved by the Court.

B. GUARDIANSHIPS

A guardian or a guardian's attorney may petition for fees at the time of filing of the initial inventory in the guardianship. No further petition for fees shall be filed until a biennial, annual or final accounting has been filed.

C. UNSUPERVISED ADMINISTRATION

No attorney or fiduciary fees will be determined or approved for payment in any unsupervised administration of a decedent's estate.

D. CONTRACT FOR LEGAL SERVICES

If a contract for legal services has been entered into prior to or subsequent to the opening of an estate or guardianship, the Court reserves the right to approve or disapprove the fee contract to insure consistency with the Court's fee guidelines in estate and guardianship proceedings.

E. FEE GUIDELINES

All petitions for fees for the estate attorney or the fiduciary shall conform to the fee guideline established and adopted by the Court. (See Appendices D, E, and F.) Any fee request based upon the performance of extraordinary services shall specifically set forth in detail the nature of the extraordinary services performed, as well as the amount of fee specifically requested for such extraordinary services, and the manner of calculation.

F. REDUCTION OF FEES FOR DELAY

Unjustified delays in performance of duties by the fiduciary or the attorney may result in a reduction of fees awarded by the Court.

LOCAL PROBATE RULE 10: UNSUPERVISED ADMINISTRATION

A. STATUTORY REQUIREMENTS

A petition for administration without court supervision may be granted if the requirements of Indiana Code 29-1-7.5-2(a)(4) are met, and there is compliance of all other requirements of Indiana Code 29-1-7.5-2(a).

B. INVENTORY

The personal representative is not required to file a copy of the inventory, a supplement, or an amendment to the inventory with the Court.

C. COSTS AND CLAIMS PAID

All Court costs shall be paid and all claims satisfied and released on or before the date of the filing of the closing affidavit, and a Clerk's certification thereof (see Appendix C) shall be filed with the Court at the time such closing affidavit is filed with the Court evidencing payment of court costs and all claims have been filed.

D. CLOSING AFFIDAVIT

Each closing affidavit shall be in compliance with Local Probate Rule 8(J).

E. SALE OF ASSETS

The sale of personal property or real estate in unsupervised estate administration may be accomplished without approval of the Court.

LOCAL PROBATE RULE 11: GUARDIANSHIPS

A. PRESENCE OF INCAPACITATED PERSON

In all guardianship proceedings seeking to declare an adult incapacitated for any reason, the incapacitated person shall be present at the hearing or there shall be sufficient evidence presented showing that the alleged incapacitated person is unable to appear.

B. APPOINTMENT OF GUARDIAN AD LITEM OR ATTORNEY

The Court may in its discretion determine that the alleged incapacitated person should have a guardian ad litem or attorney appointed to represent his or her interests, and the hearing for appointment of a guardian for the alleged incapacitated person may be continued by the Court for that purpose.

C. PHYSICIAN'S REPORT

In all guardianship proceedings seeking to declare an adult incapacitated, a physician's report by the doctor treating the alleged incapacitated person, or such additional evidence as the Court may require, shall be presented to the Court at the time the petition is filed or on the date of the hearing. No determination will be made without a supporting medical report or testimony at hearing. (See Appendix B.)

D. CURRENT REPORTS

Current reports filed by a guardian of the person shall state the present residence of the incapacitated person and a statement of the incapacitated person's current condition and general welfare. If the incapacitated person is an adult, a report of a treating physician shall be filed with the current report verifying that the incapacity of the person remains unchanged since the date the guardianship was established or the date of the last current report.

E. BIENNIAL REPORTS AND BOND PREMIUM PAYMENT

The guardian of the incapacitated person shall file current reports biennially or at such other times as ordered by the Court. If a guardian's bond is required, the guardian of the incapacitated person shall submit to the Court proof of payment of current premiums due on said bond. Failure to comply with this section may result in removal of the guardian.

F. PETITION FOR GUARDIANSHIP OF A MINOR

In every petition for the appointment of a guardian of the person of a minor child, the following information shall be contained in the petition:

1. The present address of the child.
2. The places where the child has resided during the past two years, and the names and present addresses of the persons with whom the child has lived during that period. If such information is not available, the petition should state the reason for such unavailability.
3. Whether, to petitioner's knowledge, any other litigation is pending in this state or in any other state concerning the custody of the child.
4. Whether, to petitioner's knowledge, any person not a party to the guardianship proceeding has physical custody of the child or claims to have custody or visitation rights with respect to the child.

G. HEARINGS

Hearing shall be scheduled by the Court on any petition seeking guardianship over an adult alleged to be an incapacitated person. Hearings shall be held on any petition seeking a guardianship over a child unless the guardianship is being established for school purposes only. If the guardianship is being established for school purposes only, the Court may waive the necessity of hearing.

H. RULES OF THE VETERAN'S ADMINISTRATION

Nothing contained in these rules shall amend or supersede the Probate Rules and Regulations promulgated by the Veteran's Administration of the United States, and every guardian appointed by the Court or the attorney for such guardian shall comply with those Rules and Regulations, if applicable.

APPENDIX A

CERTIFICATION BY FINANCIAL INSTITUTION

TO: _____

FROM: _____
(Guardian's Name)

RE: Guardianship of _____

In order to comply with the rule of the Monroe Circuit Probate Court, I am required to file a Certification of Account Balances. Please certify the balances and names on the accounts I have listed below.

DATED: _____
Guardian's Signature)

For Bank Use Only:

I certify that on the ____ day of _____, 20__, the last day of the period covered by this accounting, there was on deposit in this institution to the credit of the Guardian, the following balance:

Name on Account	Account Number	Balance	Date
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Name and Address of Institution:

Signature of Certifying Officer: _____
Printed: _____
Title: _____
Date: _____

APPENDIX B

STATE OF INDIANA)
)
COUNTY OF MONROE)

IN THE MONROE CIRCUIT COURT

CAUSE NO. _____

IN THE MATTER OF THE
GUARDIANSHIP OF

PHYSICIAN'S REPORT

_____, a physician licensed to practice medicine in all its branches in the State of Indiana, submits the following report on _____, alleged incapacitated person, based on an examination of said person on the _____ day of _____, 20____.

1. Describe the nature and type of the incapacitated person's disability:

2. Describe the incapacitated person's mental and physical condition; and, when it is appropriate, describe educational condition, adaptive behavior and social skills:

3. State whether, in your opinion, the incapacitated person is totally or only partially incapable of making personal and financial decisions; and, if the latter, the kinds of decisions which the incapacitated person can and cannot make. Include the reason or reasons for this opinion. _____

4. What in your opinion is the most appropriate living arrangement for the incapacitated person; and, if applicable, describe the most appropriate treatment or rehabilitation plan. Include the reason or reasons for your opinion. _____

5. Can the incapacitated person appear in court without injury to his/her health?
_____. If the answer is no, explain the medical reasons for your answer.

I affirm, under the penalties for perjury, that the foregoing representations are true.

Signature: _____
Printed: _____
Address: _____
City/State/Zip: _____
Telephone: _____

This report must be signed by a physician. If the description of the incapacitated person's mental, physical and education condition, adaptive behavior or social skills is based on evaluations by the professionals, all professionals preparing evaluations must sign the report. Evaluations on which the report is based must have been performed within three (3) months of the date of the filing of the petition.

Names and signatures of other persons who performed evaluations upon which this report is based:

Name: _____
Address: _____
Signature: _____
Date: _____

Name: _____
Address: _____
Signature: _____
Date: _____

APPENDIX C

STATE OF INDIANA)
)
COUNTY OF MONROE)

IN THE MONROE CIRCUIT COURT

CAUSE NO. _____

IN THE MATTER OF
THE ESTATE OF

CLERK'S CERTIFICATE AS TO COSTS/CLAIMS

This is to certify that all costs have been paid in this proceeding through

(Date)

In addition, all claims filed in this proceeding have been satisfied and shown
released. _____
Yes/No

If no, list the claims that remain pending: _____

Date: _____

Clerk, _____ County

APPENDIX D

PROBATE FEE SCHEDULE

The Monroe Circuit Court has prepared the following guidelines for estate fees in an effort to achieve the following objectives:

- (1) To establish uniformity in determining a fair and reasonable fee for supervised estates in Monroe County, Indiana.
- (2) To provide a guideline to assist all judges of the Circuit Court of Monroe County in determining fair and reasonable fees.
- (3) To furnish a guideline to attorneys so that attorneys can forecast to their clients the fees that may be incurred at the onset of administration of an estate.
- (4) To assist the legal profession in arriving at a fair and reasonable fee for estate work.

This schedule is not a minimum fee schedule but a maximum fee schedule. The Court recognizes that every attorney and personal representative has a right and an obligation to request a fee which is fair and reasonable for the estate work performed, taking into account that provision of the Rules of Professional Conduct which is applicable to all attorneys admitted to the practice of law in the State of Indiana. However, any request for fees should not exceed the guidelines set forth in the following schedule. Fees should always bear a reasonable relationship to the services rendered. In an uncomplicated estate, a reasonable fee may be less than the maximum fees listed in the following schedule.

The existence of these guidelines does not mean that all fees allowed by the Court will adhere to the guidelines. Other factors or criteria should be considered by the attorney and his or her client in determining the reasonableness of a fee. These same factors will be considered by the Court in making a final determination of an appropriate fee. Criteria to be considered include the following:

- (1) The time required; the novelty, complexity or difficulty of the legal questions; and the skill required to perform necessary services properly. The Court may consider how much of the attorney's time was devoted to legal matters and how much time was devoted to ministerial functions during supervision and representation of the personal representative.

(2) The identity of the personal representative and character of the probate or non-probate assets which are administered or transferred while the estate is being administered.

(3) The sufficiency of the probate assets available to pay for legal services or personal representative fees, and whether the duties of the attorney or personal representative are broadened by the existence of non-probate assets which must be considered and included for federal and state estate tax purposes.

(4) Timeliness in performing necessary estate services under statutory requirements, these rules, and Rules of Professional Conduct.

APPENDIX E

ATTORNEY FEE SCHEDULE

I. ADMINISTRATION OF THE GROSS ESTATE

A. GROSS ESTATE SERVICES include, but will not necessarily be limited to, opening the estate and qualifying the personal representative; preparing and filing the inventory; collecting assets; paying claims; preparing and filing non-extraordinary petitions (including but not limited to petitions for fee approval, petitions to sell real or personal property, petitions to deliver personal property to beneficiaries, petitions to abandon real or personal property, petitions for appointment of appraisers); preparing and filing of the Inheritance Tax Schedule and obtaining Court approval; paying inheritance taxes; preparing and filing the final report; obtaining order approving the final report; distributing assets to beneficiaries; obtaining discharge of the personal representative; preparing and filing the supplemental report after distribution; and preparing and serving all necessary notices on interested parties, including readily ascertainable creditors of the estate, during the estate proceeding.

B. GROSS ESTATE VALUE means the fair market value of all assets of any kind in the name of the decedent and a part of the decedent's probate estate at the time of the decedent's death.

C. MAXIMUM FEES FOR ADMINISTERING THE GROSS ESTATE may be approved by the Court as follows:

Up to \$100,000.00 of the Gross Estate Value—SIX PERCENT of that value.

Next \$200,000.00 of the Gross Estate Value—FOUR PERCENT.

Next \$700,000.00 of the Gross Estate Value—THREE PERCENT.

Excess of the Gross Estate Value over \$1,000,000.00—ONE PERCENT.

II. PAYMENT FOR EXTRAORDINARY SERVICES NOT A PART OF THE GROSS ESTATE SERVICES

A. In addition to the fees allowed for administration of the Gross Estate as defined in paragraph I, the Court may award additional fees for extraordinary services provided by the attorney in the administration of the estate. EXTRAORDINARY SERVICES include, but are not necessarily limited to, preparation and filing of a Federal Estate Tax Return, and payment

of federal estate tax; defending a will; construing a will; defending contested claims; adjusting tax matters; petitions for instructions; determination of heirship; or the generation of additional income for the estate during administration.

B. Attorney fees generated in providing extraordinary service, if approved by the Court, will be compensated at an hourly rate. The hourly rate requested by the attorney should conform to the prevailing hourly rate for legal services provided in Monroe County, Indiana, at the time the extraordinary services were provided. The Court reserves the right to review and adjust the hourly rate request after considering the expertise of the attorney making the request and the nature of the extraordinary services performed.

III. NON-PROBATE ASSETS

Non-probate assets are those assets for which the attorney representing the personal representative may assume responsibility in assisting the transferee of those assets in distribution. Non-Probate Assets include, but are not necessarily limited to: assets jointly owned which are transferred outside the estate administration; life insurance proceeds; annuities; retirement benefits payable to a named beneficiary other than the estate; and assets held in trust which are reportable on the Federal transfer tax return or would be reportable if such return were required. The Court recommends that fee charges for assisting beneficiaries or transferees in the transfer of Non-Probate Assets conform to the hourly rate provision established by the Court in paragraph II.B. Unless the will admitted to probate provides otherwise, fees generated by the attorney in administration of Non-Probate Assets should be charged to the beneficiary or transferee, and not to the estate.

IV. PETITIONS AND HEARINGS ON FEE REQUESTS

All requests for approval of estate or guardianship fees should be submitted to the Court in writing, and an appropriate proposed order should be submitted to the Court with the petition.

If the fee requested for administration of the Gross Estate conforms to the guideline in paragraph I.C., the Court may waive a hearing on the petition.

If the petition for approval of fees includes a request for payment for extraordinary services, the Court will schedule a hearing on the petition, UNLESS all interested parties execute a waiver and consent stating that they have been advised that the fee request exceeds the Court's guidelines for administering the Gross Estate and that the excess fee is for

extraordinary services. A proposed waiver and consent form is attached to this fee schedule, and the waiver and consent should be in the same or similar form as Appendix G. If a waiver and consent form is filed with the petition for extraordinary fees, the Court, at its discretion, may waive the requirement for hearing on the petition.

Fee petitions requesting fee payment for extraordinary services shall set forth the extraordinary services provided by the attorney with specificity.

V. WRONGFUL DEATH CLAIM ADMINISTRATION

If a wrongful death claim is settled prior to trial, the fee should not exceed 33 1/3 percent of the settlement amount.

If a wrongful death action proceeds to trial by Court or by jury, the attorney fee should not exceed 40 percent of the court or jury award.

If a wrongful death action is appealed after trial, the attorney fee should not exceed 50 percent of the court or jury award.

The foregoing fee schedule for wrongful death actions does not preclude the attorney from recovering suit costs the attorney has incurred in preparation for trial or in pre-trial discovery proceedings.

VI. PROBATE OF WILL ONLY OR SPREADING WILL OF RECORD

The fee charged for probating a will without administration or spreading a will of record should not exceed a reasonable amount based on the current hourly rate unless the attorney claims that he or she is entitled to payment for extraordinary services rendered. No petition for fee approval will be required and no hearing necessary if the attorney fee charged does not exceed a reasonable amount. If payment for extraordinary services is requested, a written petition should be filed with the Court specifying with particularity the nature of the extraordinary services performed. The Court, at its discretion, may set a hearing on a claim for payment for extraordinary services in such case.

VII. GUARDIANSHIP FEES

Fees generated in guardianship proceedings should be charged at customary and prevailing hourly rates for opening the guardianship; selling real or personal property; assisting the Guardian in filing the inventory and necessary accounting; and providing professional advice.

Petitions for approval of attorney of Guardian's fees should be filed in writing in all cases, and an appropriate proposed order submitted with the petition. The Court, at its discretion, may require a hearing on the fee request of the attorney or the Guardian.

VIII. FEES FOR COMPROMISING, SETTLEMENT, OR TRIAL OF MINOR'S CLAIM

Fee requests for compromising, settlement, or trial of minor's claims should not exceed the fee limitations imposed by the Court for representing client in wrongful death actions; however, reimbursement for suit costs and pre-trial discovery may be requested in addition to those fees.

APPENDIX F

PERSONAL REPRESENTATIVE FEES

I. PROFESSIONAL PERSONAL REPRESENTATIVES

Fees awarded to Professional Personal Representatives who are qualified to act as such should conform to the fee limitations established for attorneys representing the estate or guardianship; however, such fee may exceed the fee which is approved and awarded to the attorney if the fee awarded to the attorney is less than that proposed by the fee guidelines, and the additional fee requested by the Professional Personal Representative is justified.

If the fee requested by a Professional Personal Representative is within the fee guidelines, the Court, in its discretion may not require a hearing.

All fee requests by a Professional Personal Representative should be by written petition to the Court, with a proposed order for the court.

II. NON-PROFESSIONAL PERSONAL REPRESENTATIVE

Fees approved and awarded to a Non-Professional Personal Representative shall not exceed one-half of the fee approved and awarded to the attorney representing the Non-Professional Representative.

III. ATTORNEY SERVING AS PERSONAL REPRESENTATIVE

If an attorney for the estate serves as the personal representative of the estate, an additional fee may be approved and awarded in an amount not to exceed one-half of the attorney fee awarded and approved provided that the additional services provided by the attorney acting as personal representative are services normally provided by a personal representative; and that the assets of the estate warrant the allowance of the additional fee.

IV. PETITION FOR PERSONAL REPRESENTATIVE FEES

All requests for payment of personal representative fees should be by written petition to the Court with an appropriate proposed order the Court's consideration. If the request for personal representative's fees falls within these guidelines, the Court, in its discretion, may not require a hearing on the petition for fees.

APPENDIX G

STATE OF INDIANA)
)
COUNTY OF MONROE)

IN THE MONROE CIRCUIT COURT

CAUSE NO. _____

IN THE MATTER OF THE ESTATE OF

_____, Deceased.

WAIVER OF JUDICIAL REVIEW OF LEGAL FEES

The undersigned, an interested party in the estate of _____, deceased, does now waive any judicial review of the attorney fees assessed in the administration of the above-identified estate, and in support thereof would allege:

1. Counsel for the personal representative has requested attorney fees in the amount of _____ for services rendered during the administration of the estate.

2. The undersigned acknowledges the Court supervising the administration of the estate would require a hearing before approving attorney fees in the circumstances pertaining in this estate.

3. Counsel for the personal representative has rendered extraordinary and unusual services on behalf of the personal representative including _____

_____.

4. The undersigned believes the requested fee to be just and reasonable compensation for services rendered by counsel.

WHEREFORE, the undersigned now consents to the allowance of the requested fee, waives any right to judicial review of the requested fee, and requests the Court to approve the requested attorney fee.

Heir/Devisee/Creditor

Date